

THAILAND (Tier 2 Watch List)

Thailand is a source, destination, and transit country for men, women, and children subjected to forced labor and sex trafficking. Victims from neighboring countries, as well as from China, Vietnam, Russia, Uzbekistan, and Fiji, migrate willingly to Thailand for various reasons including to flee conditions of poverty; individuals from Burma, who make up the bulk of migrants in Thailand, seek economic opportunity. The majority of the trafficking victims identified within Thailand are migrants from Thailand's neighboring countries who are forced, coerced, or defrauded into labor or commercial sexual exploitation or children placed in the sex trade; conservative estimates have this population numbering in the tens of thousands of victims. A significant portion of labor trafficking victims within Thailand are exploited in commercial fishing, fishing-related industries, low-end garment production, factories, and domestic work, and some are forced to beg on the streets.

Research made available in 2010 indicated that 23 percent of all Cambodians deported by Thai authorities at the Poipet border were trafficking victims. A study done by the UN Inter-Agency Project on Human Trafficking (UNIAP) found that Thai authorities deport over 23,000 Cambodian trafficking victims per year. Similarly, Lao authorities have reported that groups of 50 to 100 Lao trafficking victims were among the thousands of Lao nationals deported by Thai authorities. An assessment of the cumulative risk of labor trafficking among Burmese migrant workers in the seafood industry in Samut Sakhon, found that 57 percent of these workers experience conditions of forced labor. A report released by an international organization in May 2011 noted prevalent forced labor conditions, including debt bondage, among Cambodian and Burmese individuals recruited – some forcefully or through fraud – for work in the Thai fishing industry. According to the report, Burmese, Cambodian, and Thai men were trafficked onto Thai fishing boats that traveled throughout Southeast Asia and beyond, these men remained at sea for up to several years, were not paid, were forced to work 18 to 20 hours per day for seven days a week, and were threatened and physically beaten. Similarly, an earlier UN survey found that 29 of 49 (58 percent) surveyed migrant fishermen trafficked aboard Thai fishing boats had reported witnessing a fellow fishermen killed by boat captains in instances when they were too weak or sick to work. As fishing is an unregulated industry region-wide, fishermen typically did not have written employment contracts with

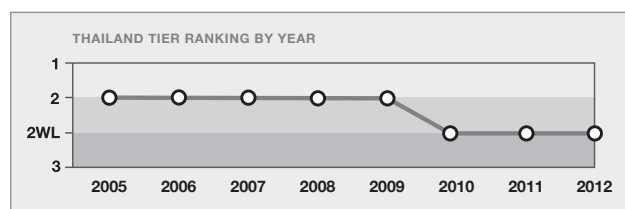
their employer. Men from Thailand, Burma, and Cambodia were forced to labor on fishing boats in Thai and international waters and were rescued from countries including Malaysia, Indonesia, Vietnam, and Timor-Leste. Observers noted that traffickers (including labor brokers) who bring foreign victims into Thailand generally work as individuals or in unorganized groups, while those who enslave Thai victims abroad tend to be more organized. Labor brokers, largely unregulated, serve as an intermediary between job-seekers and employers; some facilitate or engage in human trafficking. Informed observers reported that these brokers are of both Thai and foreign origin and work in networks, collaborating with employers and, at times, with law enforcement officials.

Foreign migrants, ethnic minorities, and stateless persons in Thailand are the greatest risk of being trafficked, and they experience withholding of travel documents, migrant registration cards, and work permits by employers. Undocumented migrants remain particularly vulnerable to trafficking, due to their economic status, education level, language barriers, and lack of knowledge of Thai law. These vulnerabilities were exacerbated during the year, when catastrophic flooding displaced at least 200,000 migrant workers. Among those seeking to return to their home countries for safety, unregistered migrants, and those whose documents had been confiscated by their employers, reportedly faced extortion by law enforcement officials and brokers to facilitate their return. Migrants for whom these fees were prohibitively high were forced to remain in Thailand in insecure situations making them highly vulnerable to trafficking, and those who returned faced a cycle of which increased their vulnerability to debt bondage and other exploitation.

Lack of documentation continues to expose migrants to potential exploitation; in the northern areas of Thailand, lack of citizenship makes highland women and girls particularly vulnerable to being trafficked. Some children from neighboring countries are forced by their parents or brokers to sell flowers, beg, or work in domestic service in urban areas. NGOs reported an increase in the number of children in commercial sexual exploitation, with false identification, in karaoke or massage parlors. During the year, Vietnamese women were confined and forced to act as surrogate mothers after being recruited for work in Bangkok. The majority of Thai victims identified during the year were found in sex trafficking; sex trafficking of both Thai and migrant children remains a significant concern. Thai victims are recruited for employment opportunities abroad, and deceived into incurring large debts on broker and recruitment fees, sometimes using family-owned land as collateral, making them vulnerable to exploitation at their destination. Most Thai victims identified abroad during the year were sex trafficking victims; victims were assisted by Thai embassies in Bahrain, Japan, Macau, Russia, South Africa, the Maldives, Oman, and Indonesia. Thai nationals are also known to be subjected to forced labor or sex trafficking in Australia, Canada, China, Germany, Israel, Kuwait, Libya, Malaysia, Qatar, Saudi Arabia, Singapore, the Republic of Korea, Sri Lanka, Taiwan, Timor-Leste, the United Arab Emirates (UAE), the United Kingdom (UK), the United States, Vietnam, and Yemen. Some Thai men who migrate for low-skilled contract work and agricultural labor are subjected to conditions of forced labor and debt bondage. Sex trafficking generally involves victims who are women and girls. Sex tourism continues to be a problem in Thailand, and this demand likely fuels trafficking for commercial sexual exploitation. Thailand is a transit country for victims from North Korea,

China, Vietnam, Pakistan, and Burma destined for third countries such as Malaysia, Indonesia, Singapore, Russia, the Republic of Korea, the United States, and countries in Western Europe. There were reports that separatist groups recruited teenaged children to carry out attacks.

The Government of Thailand does not fully comply with the minimum standards for the elimination of trafficking. The government has not shown evidence of increasing efforts to address human trafficking compared to the previous year; therefore, Thailand is placed on Tier 2 Watch List for a third consecutive year. Thailand was granted a waiver from an otherwise required downgrade to Tier 3 because its government has a written plan that, if implemented, would constitute making significant efforts to meet the minimum standards for the elimination of trafficking and is devoting sufficient resources to implement that plan. The government continued implementation of its human trafficking law and conducted awareness-raising activities on human trafficking. During the year, the government implemented regulations allowing foreign victims to live and work temporarily within Thailand, formally granting this right to 30 victims. The number of prosecutions and convictions pursued for sex and labor trafficking was disproportionately small compared to the significant scope and magnitude of trafficking in Thailand. Effective anti-trafficking law enforcement efforts were hindered by authorities' failure to identify and adequately protect victims, and the country's migrant labor policies continued to create vulnerabilities to trafficking and disincentives to victims to communicate with authorities, particularly if the workers are undocumented. Direct involvement in and facilitation of human trafficking by law enforcement officials reportedly remained a significant problem in Thailand; authorities reported investigating three cases of complicity among local law enforcement officials, but there were no prosecutions or convictions of complicit officials during the year. The Thai government invited the UN Special Rapporteur on trafficking in persons to visit in August 2011. In a press statement following her visit, the UN Special Rapporteur on trafficking in persons noted, among other shortcomings, weak enforcement of the country's legal anti-trafficking framework, inadequate efforts to address trafficking of men, endemic corruption among law enforcement officials, and a systemic failure to properly identify victims and protect their rights and safety. The Thai government agreed to fund and open five national verification centers for Burmese migrant workers inside Thailand – to be staffed by Burmese Ministry of Labor employees – and these centers opened in late April 2012.



Recommendations for Thailand: Enhance ongoing efforts to identify victims of trafficking among vulnerable populations, in particular undocumented migrants and deportees; significantly increase efforts to train front-line officials on internationally recognized indicators of forced labor such as the confiscation of travel documents or imposition of significant debts by employers or labor brokers; recognizing the systematic disincentives which make victims hesitant to communicate with authorities, develop and implement victim

identification procedures that prioritize the rights and safety of potential victims and empower law enforcement officials to carry out this mandate; increase efforts to investigate, prosecute, and convict sex and labor trafficking offenders; consider establishing a dedicated court division to expedite the prosecution of trafficking cases; facilitate greater information exchange between various law enforcement and inspection agencies and establish a clear mandate between the Royal Thai Police and the Department of Special Investigations (DSI); increase efforts – particularly through DSI – to investigate, prosecute, and convict officials engaged in trafficking-related corruption; ensure that offenders of fraudulent labor recruitment and of forced labor receive stringent criminal penalties; improve labor inspection standards and procedures to better detect workplace violations, including instances of trafficking; continue and increase efforts to allow all adult trafficking victims to travel, work, and reside outside shelters; provide legal alternatives to the removal of foreign trafficking victims to countries in which they would face retribution or hardship; make greater efforts to educate migrant workers on their rights, their employers' obligations to them, legal recourse available to victims of trafficking, and how to seek remedies against traffickers; improve efforts to regulate fees and brokers associated with the process to legalize migrant workers in order to reduce the vulnerability of migrants to human trafficking; increase anti-trafficking awareness efforts directed at employers and clients of the sex trade; make efforts to decrease the demand for exploitive labor; and ratify the 2000 UN TIP Protocol.

Prosecution

The Thai government continued some anti-trafficking law enforcement efforts during the reporting period. Thailand's 2008 anti-trafficking law criminally prohibits all forms of trafficking and prescribes penalties ranging from four to 10 years' imprisonment – penalties that are sufficiently stringent and commensurate with penalties prescribed for other serious offenses, such as rape. The Royal Thai Police reported initiating investigations in 83 trafficking-related cases – 67 for sex trafficking and 16 for forced labor – during 2011, involving 155 suspected offenders and representing an increase from 70 such investigations in 2010. These investigations led to the prosecution of 67 trafficking-related cases; this compares to 79 prosecutions in 2010. The majority of suspected offenders investigated were Thai nationals. The government reported obtaining 12 trafficking-related convictions in 2011; two convictions were for confirmed sex trafficking cases and the government did not provide sufficient information to determine whether the other 10 were trafficking cases. This is a decrease from the previous year's 18 convictions. The government often chose to facilitate an informal dispute resolution rather than to pursue criminal prosecution of employers in cases of the labor exploitation of migrants. DSI, which is under the Ministry of Justice, and has limited jurisdiction for investigating trafficking cases, initiated five investigations during the year; four of these cases were transferred to the police and one investigation remained pending with DSI at the end of the year. In implementing a January 2011 cabinet resolution to expand its anti-trafficking unit, DSI increased its staff from 12 to 25 officers. The outcome of this expansion is unclear, however, as DSI did not report a significant increase in trafficking investigations and a draft amendment of the DSI law – which would expand its mandate to allow for investigating trafficking cases without transfer to the police – was not passed during the year. Police and DSI

officials reportedly began discussions about how they would share jurisdiction over trafficking cases if the amendment is passed.

Throughout the year, the government provided anti-trafficking training to approximately 1,850 public health officers, social workers, police, and immigration officials, yet awareness of the 2008 anti-trafficking legislation remained low and many law enforcement officers continued to prosecute trafficking cases under other legal statutes. Some sex trafficking cases may have been prosecuted under the Prevention and Suppression of Prostitution Act; during 2011, 34 individuals, some of whom may have been sex traffickers, were convicted under Section 9 of this Act, which prohibits forced prostitution and related offenses.

The government did not significantly increase efforts to investigate alleged human trafficking on Thai fishing boats, reporting three such investigations in 2011 compared with two in 2010. One case was identified by the Immigration Bureau during the course of a raid and two were brought to its attention through victim complaints. Three calls to an international organization's hotline regarding suspected cases of trafficking on fishing vessels did not result in any investigations or prosecutions. Victim identification training for front-line officers was inadequate, and inspection efforts failed to successfully identify cases, despite the known prevalence of forced labor in the fishing industry. The government reported the Royal Thai Marine Police conducted pre-departure inspections of some fishing vessels during the year but did not detect any suspected cases of forced labor in 2011. Furthermore, despite conducting more than 1,000 inspections and searches of fishing boats beyond coastal waters and intercepting thousands of undocumented migrant workers – a population likely to contain trafficking victims – the Royal Thai Navy did not identify any suspected trafficking cases. In April 2012, a number of demonstrations erupted among Cambodian and Burmese migrant workers at food processing and other factories in Kachanaburi, Songkhla, and elsewhere in the country, amidst allegations that these workers were being subjected to passport confiscation, withholding of salary payments, and unsafe living conditions, and threats of deportation. The government reported conducting a police investigation, but these efforts have not yet led to any prosecutions or convictions.

The justice system remained slow in its handling of criminal cases, including trafficking cases. Additionally, frequent personnel changes and a reduction in the number of police officers hampered the government's ability to make progress on anti-trafficking law enforcement efforts. Some suspected offenders fled the country or intimidated victims after judges decided to grant bail, further contributing to the government's already low conviction rates. In July 2011, the Court of Appeals upheld the 2009 conviction of two offenders found guilty of trafficking 73 victims in a shrimp peeling factory. Both offenders remained free on bail at the close of the reporting period, pending consideration of their case by the Supreme Court.

Thai law enforcement authorities continued to cooperate with counterparts from around the world, and quarterly case management meetings with officials from Burma, Cambodia, and Laos reportedly helped to accelerate cases and resulted in the arrest of five suspected traffickers by Burmese authorities.

The government extradited one suspected sex trafficker to face prosecution in the UK during the year.

Corruption remained widespread among Thai law enforcement personnel, creating an enabling environment for human trafficking to prosper. Allegations of trafficking-related corruption persisted during the year, including in cases of sex trafficking and forced labor of migrants. There were credible reports that officials protected brothels, other commercial sex venues, and seafood and sweatshop facilities from raids and inspections, and that some officials engaged in commercial sex acts with child trafficking victims. In addition to well-known corruption of local-level police officers, there were also protective relationships between central-level specialist police officers and the trafficking hot-spot regions to which they were assigned. There was no information indicating tolerance for trafficking at an institutional level. In 2011, DSI initiated three investigations of local law enforcement officials for taking bribes to protect brothels that harbored child sex trafficking victims; no disciplinary action was taken against any officials during the year, however, and these investigations remain ongoing. The government did not respond to reports that Thai officials were involved in the trafficking of Burmese men, women, and children deported to the hands of the Democratic Karen Buddhist Army (DKBA). Authorities also have not responded to reports that Thai police officers and immigration officials extort money or sex from Burmese citizens detained in Thailand for immigration violations, and sell Burmese migrants unable to pay labor brokers and sex traffickers. Reports during the year indicated that immigration officials failed to implement a policy announced by the Ministry of Labor that it would not deport flood-affected migrant workers outside their permit zone; for example many migrant workers, without registration papers allowing them to travel outside of permitted areas where they work, were detained and arrested by authorities.

Protection

The Thai government demonstrated limited efforts to identify and protect foreign and Thai victims of trafficking during the year. The Ministry of Social Development and Human Security (MSDHS) reported that 392 foreign victims were classified as trafficking victims in Thailand and received assistance at government shelters during the year, a figure comparable to the 381 foreign victims assisted in 2010. More than half of the victims assisted were from Laos, and more than one-third were from Burma. The Royal Thai Police and DSI identified 279 victims during the year and referred 213 foreign victims to shelters; 66 Thai victims were returned to their homes, and some received services from NGOs. The Immigration Bureau identified seven Cambodian victims of forced labor during a raid of a fishing boat; it reported knowledge of five additional Burmese victims, of trafficking on fishing vessels, who submitted complaints to authorities. The Marine Police Division reported rescuing two victims from the fishing industry in Chumphon Province during the year. In 2011, the Thai Ministry of Foreign Affairs reported that assistance including repatriation was provided by embassies abroad, to 46 Thai nationals considered potential victims in Bahrain, Japan, Macau, Russia, South Africa, the Maldives, Oman, and Indonesia. The majority of these victims, both male and female, had been subjected to sex trafficking, while some were subjected to forced labor on fishing boats. In 2011, the government allocated the equivalent of \$1.9 million to MSDHS to provide protective services to trafficking victims.

The equivalent of an additional \$2.2 million was dedicated to an anti-trafficking fund; the majority of funds distributed from the fund during the year, the equivalent of approximately \$626,750, was used to finance anti-trafficking activities of government agencies and civil society organizations, while the sum equivalent to \$16,400 was distributed to 103 victims.

The government reports the use of systematic procedures to screen for victims among vulnerable populations, such as undocumented migrants in detention; however, serious deficiencies in the government's victim identification efforts led to some trafficking victims being unidentified during the year. The Thai government deports hundreds of thousands of undocumented migrants each year; in 2011, it identified only 56 victims from within this population. Many victims, particularly irregular migrants who feared legal consequences from authorities, were hesitant to identify themselves as victims, and front-line officials were not adequately trained to identify such individuals as victims.

In 2011, MSDHS trained nearly 2,000 public officials on the provision of the anti-trafficking legislation and certified them as "competent officials" in this regard. Local law enforcement officials lacked awareness of the essential elements of human trafficking, and regularly misidentified victims with whom they came in contact. In December 2011, authorities raided a shrimp factory in southern Thailand and rescued four Burmese labor trafficking victims after receiving a tip from an NGO. Although authorities identified the four individuals as being subjected to debt bondage – a form of human trafficking – the government failed to certify them as trafficking victims, and refer them to protective services. Instead the victims were held in detention and subsequently deported, illustrating authorities' insufficient understanding of the elements of human trafficking. Some undocumented migrants were precluded from being identified as a trafficking victim based on their immigration status. Some law enforcement officers often believed physical detention or confinement was the essential element to confirm trafficking, and failed to recognize exploitive debt or manipulation of irregular migrants' fear of deportation as non-physical forms of coercion in human trafficking. In July 2011, authorities rescued six children who had been coerced and drugged into begging on the streets at night; some were allegedly sexually assaulted. While the government identified one child as a trafficking victim and one child as a victim of sexual assault and referred them to protective services, it determined the others were not victims because they were related to the traffickers; subsequently two children were referred to protective care. Only law enforcement officials are able to make a final determination to certify an individual as a trafficking victim, and during the year there were reports that social workers or representatives of civil society sometimes disagreed with law enforcement officers' decisions.

The Thai government continued to refer victims to one of nine regional shelters run by MSDHS, where they reportedly received counseling, limited legal assistance, and medical care; although the shelters did not always have the human resource capacity to provide adequate assistance. Foreign adult victims of trafficking identified by authorities were required to stay in government shelters and typically could not opt to reside outside of a shelter or leave the premises unattended before Thai authorities were prepared to repatriate them. Two government shelters for trafficking victims were forced to close for nearly two months during the flooding; displaced

victims were transferred to other MSDHS facilities. In 2011, the Ministries of Labor and Interior issued regulations to allow some foreign victims the right to seek employment while awaiting conclusion of legal processes; the government has since granted this right to approximately 30 victims of labor trafficking. The government did not report standard eligibility criteria for victims to receive this benefit, but reported it will be considered on a case-by-case basis for labor trafficking victims; those chosen will be eligible for a six-month work permit and visa, renewable for the duration of their court cases. Extending this benefit to more victims would provide an incentive for victims to remain in Thailand for the duration of their legal proceedings. Government officials did not have specialized service provision for child sex trafficking victims, and the forced repatriation of those unwilling to testify against their traffickers resulted in many of them being re-trafficked. There were reports during the year of foreign trafficking victims who fled shelters, likely due to slow legal and repatriation processes, the inability to earn income during trial proceedings, language barriers, and distrust of government officials. There were reported instances in which victims opted not to seek designation as trafficking victims due to systemic disincentives, such as long stays in shelters during lengthy repatriation and court processes; many of these victims were returned to their country of origin. In at least one case during the year, the government allowed child victims to reside in an NGO-run shelter which it determined could more adequately address their needs. NGOs reported that some victims were trained by labor brokers on how to lie to government officials to prevent being identified as victims or escape from shelters. There were reports that quarterly case management meetings with Burma and Laos accelerated the nationality verification and repatriation process between the countries during the year. Some Uzbek victims were removed from a government shelter and transferred to Uzbekistan's embassy in Thailand after an altercation arose with other victims.

Thai law protects victims from being prosecuted for acts committed as a result of being trafficked, and observers believe identified victims' rights were generally respected. However, the Thai government's victim identification procedures are flawed, and authorities' aggressive efforts to arrest and deport immigration violators led to some victims being punished. The government generally encouraged victims to participate in the investigation and prosecution of trafficking cases, although some victims opted not to do so for the same reasons many fled shelters or sought to avoid designation as trafficking victims. During the year, authorities, through the threat of civil suits, authorities negotiated compensation for 40 child and adult labor trafficking victims, in a total sum of approximately the equivalent of \$11,000. High legal costs, language, bureaucratic, and immigration barriers, fear of retribution by traffickers, distrust of Thai officials, slow legal processes, and the financial needs of victims effectively prevented most victims from participating in the Thai legal process. The lack of regulation of the fishing industry and labor law coverage for fishermen on small vessels in Thailand under the Labor Protection Act of 1998 makes this population particularly vulnerable to exploitation; the cabinet approved amendments to expand protections in this law to all boats with one or more workers on board, but the amendment did not take effect during the reporting year. A 2005 cabinet resolution established that foreign trafficking victims in Thailand who are stateless residents can be given residency status on a case-by-case basis; the Thai government, however, has yet to report granting residency status to a foreign trafficking victim.

Prevention

The Thai government made some efforts to prevent human trafficking, including through collaboration with international organizations and NGOs, but it did not demonstrate sufficient efforts to decrease the demand for forced and exploitive labor. While some activities aimed to raise public awareness of trafficking within Thai society as a whole, others attempted to raise awareness among targeted high-risk industries. The government estimated that throughout 2011, it reached more than 7,500 people nationwide. The anti-trafficking in Persons committee and its coordinating and monitoring body continued to meet regularly through the year, but met on fewer occasions in 2011 than in previous years due to political transition and devastating floods. In January 2012, the Thai government published a report – which had been delayed from 2010 – on its own anti-trafficking efforts, and in March 2012, it adopted a two-year national action plan to guide its future efforts. The government reported taking steps to issue new regulations for protection to workers in the fishing industry – who are highly vulnerable to trafficking – and a list of hazardous occupations for children, although neither was finalized or enacted during the year. The government distributed 150,000 leaflets in the common languages of migrant workers from neighboring countries to educate workers on their rights and their employers' obligations to them. During 2011, 851,830 migrants were registered and received permits to work in Thailand under the government's Nationality Verification and Granting an Amnesty to Remain in the Kingdom of Thailand to Alien Workers Program, which allowed workers to receive formal work visas from the Thai government and the claims of greater rights inside Thailand. Observers remained concerned that the process to legalize migrant workers with its associated fees, as well as costs imposed by poorly regulated and unlicensed labor brokers, increased the vulnerability of migrant workers to trafficking and debt bondage. In some cases, workers reportedly incurred debts imposed by labor brokers and amounting to as much as the equivalent of \$700 for the required processing of their registration. During the year, the government provided trainings to 49 translators and developed a list of trained translators to facilitate the government's response to foreign language queries reposted to the hotline that receives calls regarding trafficking cases; however, the government's decentralized call system made it difficult to ensure that localities systematically and adequately responded to calls that were diverted to them – particularly calls that came from non-Thai callers.

During the year, the government revoked the licenses of two labor recruitment companies, out of nine which had been suspended during the previous year, and initiated investigations into 321 cases of alleged violations of the Labor Employment Act; at least two of these cases involved allegations of forced labor, resulting in two employers sentenced by the labor court to pay the equivalent of \$3,000 in fines, and one offender sentenced to 11 months in prison, although this term was suspended for two years. The Department of Employment, through random airport screenings, reported identifying 481 individuals as traveling under false pretenses and prevented them from leaving the country during the year, but it did not make efforts to identify potential trafficking victims or refer any suspected trafficking cases to law enforcement agencies. The government conducted awareness-raising campaigns targeting tourists' demand for child sex tourism and extradited one alleged pedophile to the United States for prosecution, but it did not make any other discernible efforts to reduce the

demand for commercial sexual acts or forced labor. Inadequate victim identification procedures may have resulted in some victims being treated as law violators following police raids of brothels. The government did not provide Thai troops anti-trafficking training prior to their deployment abroad on international peacekeeping missions. Thailand is not a party to the 2000 UN TIP Protocol.